

ENTERED

June 13, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

THE BANK OF NEW YORK MELLON;	§	
fka THE BANK OF NEW YORK AS	§	
TRUSTEE FOR THE BENEFIT OF	§	
CERTIFICATE HOLDERS OF THE	§	
CWABS INC., ASSET BACKED	§	
CERTIFICATES, SERIES 2007-9,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. 3:18-CV-00086
	§	
CHRISTOPHER L. TOLBERT, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER

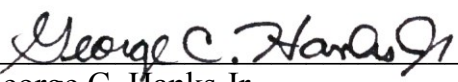
Before the Court are Defendant Tania Tolbert's Motion to Dismiss (Dkt. 40), Defendant Christopher Tolbert's Amended Answer (Dkt. 42), Christopher Tolbert's Motion to Dismiss (Dkt. 52), and Tania Tolbert's Motion to Dismiss or Set Aside Judgment (Dkt. 59).

After reviewing the docket sheet, the Court finds that a final judgment was never entered against Christopher Tolbert. Therefore, the Court **ACCEPTS** Christopher Tolbert's Amended Answer (Dkt. 42) and acknowledges it as his operative response in this case. Accordingly, the Court **DENIES** Christopher Tolbert's Motion to Dismiss (Dkt. 52) **AS MOOT**. Having already reached a settlement agreement with Christopher Tolbert, the Bank of New York Mellon may propose a stipulation to dismiss him from this suit. *Nat'l City Golf Fin. v. Scott*, 899 F.3d 412, 415 n.3 (5th Cir. 2018) ("In a multi-

defendant suit, the plaintiff may single out a party for dismissal; in those cases only the dismissed defendant need sign the stipulation.”).

After reviewing Tania Tolbert’s Motion to Dismiss (Dkt. 40) and Tania Tolbert’s Motion to Dismiss or Set Aside Judgment (Dkt. 59), the Court **DENIES** both of these motions. Tania Tolbert did not attend the hearing the Court held to discuss her motions to dismiss. Dkt. 51. As a consequence, Tania Tolbert failed to provide evidence of good cause as to why the default judgment entered against her should be vacated. *See Baldwin v. Taishang Gypsum Co., Ltd. (In re Chinese-Manufactured Drywall Prods. Liab. Litig.)*, 742 F.3d 576, 594 (5th Cir. 2014) (“To determine whether or not good cause is present” to vacate a default judgment “we consider three factors: (1) whether the default was willful; (2) whether setting aside the default judgment would prejudice Plaintiffs; and (3) whether TG presented a meritorious defense.”). Accordingly, the Court **DENIES** Tania Tolbert’s motions to withdraw the final judgment entered against her.

SIGNED at Galveston, Texas, this 13th day of June, 2019.



George C. Hanks Jr.
United States District Judge